FARAD CONTINUATION SHEET NO.:

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CIVIL APPLICATION NO.3985 OF 2004
IN
FIRST APPEAL NO.283 OF 1994

Office Notes, Office Memoranda of coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Mr M.V.Mhatre, for the applicant/petitioner.
Mr J.J.Xavier, for the BMC.
Mr S.V.Mhatre, for Respondent Nos 1A to 2C.

CORAM: D.B.BHOSALE,J.
DATED: 01.12.2006

P.C.:

Heard the learned counsel for the parties.

By this civil application, the applicant has prayed for setting aside the order dismissing the appeal for nonprosecution and for restoration of the appeal to the file. There is delay. The learned counsel for the heirs of the deceased landlord, strongly opposed the application. However, keeping in view the overall facts and circumstances of the case and in the interest of justice, I am inclined to allow this application subject

to payment of cost. Hence, I pass the following order.

(a) This civil application is allowed in terms of prayer clauses (a) and (b) subject to condition that the applicant shall pay cost of Rs.3000/- by demand draft to the heirs of the deceased respondent-landlord within two weeks from today.

It is needless to mention that the applicant shall have to comply with the order dated 8.2.2002 within two weeks from today, failing which the appeal shall stand dismissed for nonprosecution without further reference to the court.

The civil application is disposed of.

(D.B.BHOSALE,J.)